IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

W.P.Nos.7516, 7475 and 7491 of2005

WRIT PETITION NO : 7516 of 2005

Between:

M/s Sravanthi Movies, S-2, Srinivasa Apartments, Srinagar Colony, Hyderabad, represented by its Proprietor Mr. P.V. Ravi Kishore.

..... PETITIONER

AND

1 The Commercial Tax Officer, Punjagutta Circle, Hyderabad.
2 The Commercial Tax Officer, Srinagar Colony Circle, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari or any other appropriate Writ or Order or direction calling for the records pertaining to the impugned assessment order of the 2nd Respondent dated 22-1-2005 for the year 2002-03 and quash the same as illegal, arbitrary and without authority of law, contrary to the provisions of the APGST Act and in violation of principles of natural justice an declare that the assignment of the transfer of audio rights in favour of the recording Companies for producing audio cassettes and discs does not amount to sale and is not exigible to tax as intangible or incorporeal goods under Entry 197 of the First Schedule to the APGST Act and pass such order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.SRINIVASA REDDY

Counsel for the Respondents: SPECIAL GP FOR TAXES

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WRIT PETITION NO : 7491 of 2005

Between:

M/s. Sravanthi Movies, S-2, Srinivasa Apartments,
Srinagar Colony, Hyderabad, represented by its Proprietor,
Mr.P.V.Ravi Kishore.

..... PETITIONER

AND

1 The Commercial Tax Officer, Punjagutta Circle,
Hyderabad.
2 The Commercial Tax Officer, Srinagar Colony Circle,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari or any other appropriate Writ or Order or direction calling for the records pertaining to the impugned assessment order of the 2nd respondent dt.22.11.2005 for the year 2001-2002 and quash the same as illegal, arbitrary and without authority of law, contrary to the provisions of the APGST Act and in violation of principles of natural justice an declare that the assignment of the transfer of audio rights in favour of the recording Companies for producing audio cassettes and discs does not amount to sale and ins not exigible to tax as intangible or incorporeal goods under Entry 197 of the First Schedule to the APGST Act and pass such other order or orders.

Counsel for the Petitioner: MR.P.SRINIVASA REDDY

Counsel for the Respondents: SPECIAL GP FOR TAXES

WRIT PETITION NO : 7475 of 2005

Between:

M/s.Sravanthi Movies, S-2, Srinivasa Apartments, Srinagar Colony, Hyderabad represented by its Proprietor Mr.P.V.Ravi Kishore.

..... PETITIONER

AND

1 The Commercial Tax Officer, Punjagutta Circle, Hyderabad.
2 The Commercial Tax Officer, Srinagar Colony Circle, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of certiorari or any other appropriate writ or order or direction calling for the records pertaining to the impugned assessment order of the 2nd respondent dated 22-1-2005 for the year 2003-04 and quash the same as illegal, arbitrary and without authority of law, contrary to the provisions of the APGST Act and in violation of principles of natural justice and declare that the assignment of the transfer of audio rights in favour of the recording Companies for producing audio cassettes and discs does not amount to sale and is not exigible to tax as intangible or incorporeal goods under Entry 197 of the First Schedule to the APGST Act and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.SRINIVASA REDDY

Counsel for the Respondents: SPL GP FOR TAXES

The Court made the following:

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ORAL ORDER: (per GB. J.)

All these three Writ Petitions can be disposed of by a common order.

2. The principal grievance of the petitioners is that before passing the assessment order, no show cause notice was issued and therefore it is in violation of principles of natural justice.

3. Though the Special Government Pleader for Commercial Taxes submits that the assessing authority issued show cause notice to the petitioners, we do not find there is any show cause notice issued by the authority, but on the other hand he passed the final order on 22.1.2005. Under these circumstances, we find that no proper opportunity was given to the petitioners and therefore the assessment order as made is not sustainable. Accordingly the said assessment order are set aside. But, however, we direct that the impugned assessment orders shall be treated as show cause notice and the petitioners shall submit the explanation to the show cause notice dated 22.1.2005 within a period of two (02) weeks from the date of receipt of a copy of this order. On such explanation the assessing authority shall pass appropriate orders within a period of three (03) weeks thereafter.

4. With the directions indicated above, the Writ Petition is disposed of. No costs.

(G.BIKSHAPATHY, J.)

8th April, 2005.

(P.S.NARAYANA, J.)

SSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commercial Tax Officer, Punjagutta Circle, Hyderabad.
2 The Commercial Tax Officer, Srinagar Colony Circle, Hyderabad.

3 2 CCs to Special G.P. for Taxes, High Court of A.P. Hyderabad. (OUT)

4 2 CD copies

*Form-NIC-OGS/WP{**RS**}*